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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,003	02/04/2002	David M. Reilly	VI/01-009	5697

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EXAMINER

MAIORINO, ROZ

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,003

Applicant(s)

REILLY ET AL.

Examiner

Roz Maiorino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 10-13, 18-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10-13, 18-20, 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1, 10-13, 18-20, 22 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4681566 to Fenton Jr. et al.

Fenton teaches a device comprising a body having a plunger slidably disposed therein and an attachment mechanism associated with the body for attaching the syringe to an

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injector comprising a mounting mechanism; and a drive member linked to a lever arm; the support frame defining a first slot, the lever arm being rotatably connected to the drive member via a first in and a second slot with a second pin attached thereto. (figure 6 in Fenton, Jr. et al.)

2. Claims 1, is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent NO. 4465474 to Mardorf et al.

Mardorf teaches a body having a plunger 12 slidably disposed therein and an attachment mechanism associated with the body for attaching the syringe 13 to an injector comprising a mounting mechanism; and a drive member 14 linked to a lever arm 15/66; the support frame defining a first slot (fig 2), the lever arm 15/66 being rotatably connected to the drive member 14. (figures 1-4)

3. Claims 1, is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5830194 to Anwar et al.

Anwar teaches a device comprising a body having a plunger 122 slidably disposed therein and an attachment mechanism associated with the body for attaching the syringe to 112 an injector comprising a mounting mechanism ; and a drive member 120 linked to a lever arm 124 .

4. Claims 1, 10-13 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 550727 to Cranich.

Cranich teaches a device comprising a body having a plunger 20 slidably disposed therein and an attachment mechanism associated with the body for attaching the syringe 14 to an injector comprising a mounting mechanism 16; and a drive member 22

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linked to a lever arm 46; the support frame defining a first slot 52, the lever arm being rotatably connected to the drive member 22 via a first pin and a second slot with a second pin 58/54 attached thereto.(figure1-8)

5. Claims 18, 20, 22 rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6048334 to Hirschman et al. or US patent NO. 6090064 to Reilly et al. Both Reilly and Hirschman teach a device comprising a body having a plunger slidably disposed therein and an attachment mechanism associated with the body for attaching the syringe to an injector comprising a mounting mechanism; and a drive member linked to a lever arm; the support frame defining a first slot, the lever arm being rotatably connected to the drive member via a first in and a second slot with a second pin attached thereto.

6. Claims 18-19 rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 4838587 to Strowe et al.

Strowe teach a syringe 19, a powered injector 14 to pressurized a fluid loaded into the syringe, and a syringe loader 15, wherein the syringe loader is operable independent of the power injector.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 10-13, 18-20, 22 have been considered but are moot in view of the new ground(s) of rejection.

8. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., claim 18 does NOT teach a separate injector and syringe loader) are not recited in

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the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

9. Applicant's arguments filed 2-26-2002 have been fully considered but they are not persuasive. Applicant alleges none of the art teaches a lever arm connected to the drive member to impair reciprocal linear motion to the syringe plunger, however such a limitation is functional language and all of the prior art cited are capable of impairing reciprocal motion of the syringe plunger.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Maiorino whose telephone number is 703-305-2336. The examiner can normally be reached on 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RM


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TECHNOLOGY CENTER 3700